

TITLE 4 DEPARTMENT OF AGRICULTURE
 SUBTITLE 6 DIVISION OF PLANT INDUSTRY
 CHAPTER 66
 PESTICIDES

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Historical Note: This chapter is based substantially upon Regulation 1 entitled "Pesticide Regulation" of the division of plant industry, department of agriculture. [Eff. (2/22/74) 4/6/74; am 12/10/77; R 7/13/81]

§4-66-1 Objectives. The objectives of these rules are to implement the requirements of chapter 149A, Hawaii Revised Statutes, which provides for the registration, licensing, certification, recordkeeping, usage, and other activities related to the safe and efficacious use of pesticides. [Eff. 7/13/81] (Auth: HRS §149A-33) (Imp: HRS §149A-33)

§4-66-2 Definitions. As used in this chapter:

"Act" means the Hawaii Pesticides Law, chapter 149A, Hawaii Revised Statutes;

"Agricultural commodity" means any plant, or plant product, or animal or animal product, produced by, but not limited to, farmers, ranchers, vineyardists, plant propagators, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons for sale;

"Certification" means the authorization granted by the state or federal government to a person to use, handle, or supervise the use of restricted use pesticides;

"Certification standard" means a requirement for certification;

"Changed use pattern" means a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use;

"Commercial applicator" or "commercial pesticide applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by §149A-2(28), Hawaii Revised Statutes;

"Competent" means the state of being able and qualified to perform a particular function in pesticide application, the degree of competence being directly related to the nature of the activity and the

associated responsibility;

"Domestic application" means application of a pesticide directly to humans or pets, or application of a pesticide in, on, or around all structures, vehicles, or areas associated with the household or home life, patient care areas of health related institutions, or areas where children spend time, including but not limited to:

- (1) Gardens, non-commercial greenhouses, yards, patios, houses, pleasure marine craft, mobile homes, campers and recreational vehicles, non-commercial campsites, home swimming pools and kennels;
- (2) Articles, objects, devices or surfaces handled or contacted by humans or pets in all structures, vehicles or areas listed above;
- (3) Patient care areas of nursing homes, mental institutions, hospitals, and convalescent homes; and
- (4) Educational, lounging and recreational areas of preschools, nurseries and day camps;

"FIFRA" means the Federal, Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et. seq., as amended;

"Finished bait" means an end use product which requires no preparation, mixing or transfer from the original container;

"Front panel" means that portion of the label of a pesticide product that is ordinarily visible to the purchaser under the usual conditions of display for sale;

"Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungus, bacterium, or virus. Fungicides include:

- (1) Products intended for use as seed or plant treatments to destroy or prevent fungus diseases;
- (2) Products intended for use in disinfecting, sanitizing, or sterilizing premises or other inanimate objects to prevent or destroy organisms which cause diseases of man or other animals;
- (3) Products for use in reducing bacterial counts in water or air; and
- (4) Products intended for use as wood preservatives which prevent rot or decay in wood by preventing or destroying organisms which cause decay or rot;

Products not considered fungicides include:

- (1) Products intended for use in preventing or

destroying any fungus or virus on or in living man or other animals and those on or in processed food, beverages or pharmaceuticals (the term processed foods includes processed animal feed and the term pharmaceuticals is intended to include cosmetics); and

- (2) Paints which are treated to protect the paint itself and bear no claim for preventing or destroying fungi after application to any surface;

"Hazard" means a situation where there exists a probability that a given pesticide will cause injury or have an adverse effect on the environment;

"Head" means the head of the division of plant industry, Hawaii department of agriculture, or any officer or employee to whom authority has been duly delegated;

"Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed including any algae or other aquatic weed, or any plant parts growing where not wanted;

"Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insect. The term shall not include pharmaceutical products approved by the United States Food and Drug Administration for use, under prescription by a licensed physician on humans or by a licensed veterinarian on animals;

"LC₅₀" means a concentration of substance, expressed as parts per million parts of medium, that is lethal to fifty per cent of the test population of animals under test conditions acceptable for registration under FIFRA;

"LD₅₀" means a single dermal or oral dose of a substance, expressed as milligrams per kilogram (mg/kg) of body weight, that is lethal to fifty per cent of the test population of animals under test conditions acceptable for registration under FIFRA;

"Licensed sales outlet" means a specified site within the state where a stock of restricted use pesticides are kept for sale and where records of such sale are kept;

"Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes inhabiting soil, water, plants, or plant parts;

"Non-target organisms" means those flora and fauna (including man) that are not intended to be controlled,

injured, killed, or detrimentally affected in any way by a pesticide;

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, attracting, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. A product shall be deemed to be a pesticide regardless of whether it is intended for use as packaged, or as a dilution or mixture with substances such as carriers or baits.

Products not considered pesticides include:

- (1) Deodorants, bleaching agents, and cleaning agents for which no pesticidal claims are made or implied;
- (2) Embalming fluids;
- (3) Building materials which have been treated to protect the material itself against any pest and bear no claims for protection of other surfaces or objects;
- (4) Fabrics which have been treated to protect the fabric itself from insects, fungi, or any other pests;
- (5) Fertilizer and other plant nutrients; and
- (6) Products intended only for use after further processing or manufacturing such as grinding to dust or other operations;

"Qualified pesticides sales manager" means a person in charge of the sale of restricted use pesticides in a licensed sales outlet and who has successfully passed an examination to qualify for that position;

"Reentry" means the action of entering an area or site where a pesticide has been applied;

"Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating animals belonging to the Order Rodentia of the Class Mammalia such as rats, mice, gophers, rabbits, hares, and closely related species;

"Use" means any act of handling or release of a pesticide, or exposure of man or the environment to a pesticide through acts, including but not limited to:

- (1) Application of a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
- (2) Storage actions for pesticides and pesticide containers; and
- (3) Disposal actions for pesticides and pesticide containers;

"Use pattern" means the manner in which a pesticide is applied and includes the following

parameters of pesticide application:

- (1) Target pest;
- (2) Crop or animals treated;
- (3) Application site; and
- (4) Application technique, rate and frequency.

[Eff. 7/13/81] (Auth: HRS §149A-33) (Imp: HRS §149A-33)

§4-66-3 Administration, enforcement, and penalty.

The head may take any action as may be necessary in the administration and enforcement of the act, this rule, and the penalty provisions as provided by law.
[Eff. 7/13/81] (Auth: HRS §149A-33) (Imp: HRS §149A-33)

§4-66-4 Contents of the pesticide label;

generally. Every pesticide product shall bear a label containing the information specified by the act and these rules. The contents of a label shall show clearly and prominently the following:

- (1) The name, brand, or trademark under which the product is sold or prescribed in §4-66-5;
- (2) The name and address of the producer, registrant, or person for whom produced as prescribed in §4-66-6;
- (3) The net contents as prescribed in §4-66-7;
- (4) The product registration number as prescribed in §4-66-8;
- (5) The producing establishment number as prescribed in §4-66-9;
- (6) An ingredient statement as prescribed in §§4-66-10 to 4-66-16;
- (7) Warning or precautionary statements as prescribed in §§4-66-17 to 4-66-19;
- (8) The directions for use as prescribed in §§4-66-20 to 4-66-23; and
- (9) The use classification as prescribed in §§4-66-24 and 4-66-25.

[Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-5 Label; name, brand, or trademark. (a)

The name, brand or trademark under which the pesticide product is sold shall appear on the front panel of the label.

- (b) No name, brand, or trademark may appear on

the label which:

- (1) Is false or misleading; or
- (2) Has not been approved by the head through registration or licensing.

[Eff. 7/13/81] (Auth: HRS §§149A-14, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-6 Label; name and address of producer, registrant, or person for whom produced. An unqualified name and address given on the label shall be considered as the name and address of the producer.

If the registrant's name appears on the label and the registrant is not the producer, or if the name of the person for whom the pesticide was produced appears on the label, it shall be qualified by appropriate wording such as "packed for," "distributed by," or "sold by" to show that the name is not that of the producer. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-7 Label; net weight or measure of contents.

(a) The net weight or measure of content shall be exclusive of wrappers or other materials and shall be the average content unless explicitly stated as a minimum quantity.

(b) If the pesticide is a liquid, the net content shall be in terms of liquid measure at 68 F. (20 C.) and shall be expressed in conventional american units or fluid ounces, pints, quarts, and gallons.

(c) If the pesticide is solid or semi-solid, viscous or pressurized, or is a mixture of liquid and solid, the net content statement shall be in terms of weight expressed as avoirdupois pounds and ounces.

(d) In all cases, net content shall be stated in terms of the largest suitable units, i.e., "1 pound 10 ounces" rather than "26 ounces."

(e) In addition to the required units specified, net content may be expressed in metric units.

(f) Variation above minimum content or around an average is permissible only to the extent that it represents deviation unavoidable in good manufacturing practice. Variation below a stated minimum is not permitted. In no case shall the average content of the packages in a shipment fall below the stated average content. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162-10) (Imp: HRS §§149A-15,

149A-33, 40 CFR §162.10)

§4-66-8 Label; product registration number. The registration number assigned to the pesticide product at the time of registration by the Environmental Protection Agency shall appear on the label, preceded by the phrase "EPA Registration No.," or the phrase "EPA Reg. No." The registration number shall be set in type of a size and style similar to other print on that part of the label on which it appears and shall run parallel to it. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-9 Label; producing establishment registration number. The producing establishment registration number preceded by the phrase "EPA Est.", of the final establishment at which the product was produced may appear in any suitable location on the label or immediate container. It shall appear on the wrapper or outside container of the package if the EPA establishment registration number on the immediate container cannot be clearly read through the wrapper or container. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-10 Label; ingredient statement; generally.
 (a) The label of each pesticide product shall bear a statement which contains the name and percentage by weight of each active ingredient, the total percentage by weight of all inert ingredients; and if the pesticide contains arsenic in any form, a statement of the percentages of total and water-soluble arsenic calculated as elemental arsenic.
 (b) The active ingredients shall be designated by the term "active ingredients" and the inert ingredients by the term "inert ingredients," or the singular forms of these terms when appropriate. Both terms shall be in the same type size, be aligned to the same margin and be equally prominent. The statement "Inert Ingredients, none" is not required for pesticides which contain one hundred per cent active ingredients.
 (c) Unless the ingredient statement is a complete analysis of the pesticide, the term "analysis" shall not be used as a heading for the ingredient statement. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR

§162.10) (Imp: HRS §§139A-15, 149A-33, 40 CFR §162.10)

§4-66-11 Label; position of ingredient statement.

(a) The ingredient statement is normally required on the front panel of the label. If there is an outside container or wrapper through which the ingredient statement cannot be clearly read, the ingredient statement shall also appear on the outside container or wrapper. If the size or form of the package makes it impracticable to place the ingredient statement on the front panel of the label, permission may be granted for the ingredient statement to appear elsewhere.

(b) The text of the ingredient statement shall run parallel with the other text on the panel on which it appears, and shall be clearly distinguishable from, and shall not be placed in, the body of other text. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-12 Label; names to be used in ingredient statement. The name used for each ingredient shall be the accepted common name, if there is one, followed by the chemical name. The common name may be used alone only if it is well known. If no common name has been established, the chemical name alone shall be used. In no case shall the use of a trademark or proprietary name be permitted unless such name has been accepted as a common name. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-13 Label; statements of percentages. The percentages of ingredients shall be stated in terms of weight-to-weight. The sum of percentages of the active and inert ingredients shall be one hundred. Percentages shall not be expressed by a range of values such as "22-25%." If the uses of the pesticide product are expressed as weight of active ingredient per unit area, a statement of the weight of active ingredient per unit volume of the pesticide formulation shall also appear in the ingredient statement. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-14 Label; accuracy of stated percentages. The percentages given shall be as precise as possible reflecting good manufacturing practice. If there may be unavoidable variation between manufacturing batches, the value stated for each active ingredient shall be the lowest percentage which may be present. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-15 Label; deterioration. Pesticides which change in chemical composition significantly shall meet the following labeling requirements:

- (1) In cases where it is determined that a pesticide formulation changes chemical composition significantly, the product shall bear the following statement in a prominent position on the label: "not for sale or use after (date)"; and
 - (2) The product shall meet all label claims up to the expiration time indicated on the label.
- [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-16 Label; inert ingredients. The head may require the name of any inert ingredient or ingredients to be listed in the ingredient statement if it is determined that such ingredient or ingredients may pose a hazard to man or the environment. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-17 Label; warning and precautionary statements; generally. Required warnings and precautionary statements concerning the general areas of toxicological hazard including hazard to children, environmental hazard, and physical or chemical hazard fall into two groups: those required on the front panel of the labeling and those which may appear elsewhere. Specific requirements concerning content, placement, type size, and prominence are given in §§4-66-18 and 4-66-19. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-18 Label; required front panel statements.

(a) With the exception of the child hazard warning statement, the text required on the front panel of the label is determined by the toxicity category of the pesticide. The category is assigned on the basis of the highest hazard shown by any of the following indicators:

Toxicity category I

Oral LD₅₀ Up to and including 50 mg/kg
 Inhalation LC₅₀ Up to and including 0.2 mg/liter
 Dermal LD₅₀ Up to and including 200 mg/kg
 Eye effects Corrosive; corneal opacity not reversible within 7 days
 Skin effects Corrosive

Toxicity category II

Oral LD₅₀ From 50 through 500 mg/kg
 Inhalation LC₅₀ From 0.2 through 2 mg/liter
 Dermal LD₅₀ From 200 through 2,000 mg/kg
 Eye effects Corneal opacity reversible within 7 days
 Skin effects Severe irritation at 72 hours

Toxicity category III

Oral LD₅₀ From 500 through 5,000 mg/kg
 Inhalation LC₅₀ From 2 through 20 mg/liter
 Dermal LD₅₀ From 2,000 through 20,000 mg/kg
 Eye effects No corneal opacity; irritation reversible within 7 days
 Skin effects Moderate irritation at 72 hours

Toxicity category IV

Oral LD₅₀ Greater than 5,000 mg/kg
 Inhalation LC₅₀ Greater than 20 mg/liter
 Dermal LD₅₀ Greater than 20,000 mg/kg
 Eye effects No irritation
 Skin effects Mild or slight irritation at 72 hours

(b) Human hazard signal words required for the respective toxicity categories shall be as follows:

- (1) Toxicity category I. All pesticide products meeting the criteria of toxicity category I shall bear on the front panel, the signal word "danger." In addition, if the product was assigned to toxicity category I on the basis of its oral, inhalation, or dermal toxicity (as distinct from skin and eye local effects) the word "poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "poison";
- (2) Toxicity category II. All pesticide products

meeting the criteria of toxicity category II shall bear on the front panel the signal word "warning";

- (3) Toxicity category III. All pesticide products meeting the criteria of toxicity category III shall bear on the front panel the signal word "caution";
- (4) Toxicity category IV. All pesticide products meeting the criteria of toxicity category IV shall bear on the front panel the signal word "caution"; and
- (5) Use of any signal word or words associated with a higher toxicity category is not permitted except when the head determines that such labeling is necessary to prevent unreasonable adverse effects on man or the environment. In no case shall more than one human hazard signal word appear on the front panel of a label.

(c) Every pesticide product label shall bear on the front panel the statement "keep out of reach of children." Only in cases where the likelihood of contact with children during distribution, marketing, storage, or use is demonstrated by the applicant to be extremely remote, or if the nature of the pesticide is such that it is approved for use on infants or small children, may the head waive this requirement.

(d) Statement of practical treatment required for the respective toxicity categories shall be as follows:

- (1) A statement of practical treatment (first aid or other) shall appear on the front panel of the label of all pesticides falling into toxicity category I on the basis of oral, inhalation or dermal toxicity. The department may, however, permit reasonable variations in the placement of the statement of practical treatment if some reference such as "see statement of practical treatment on back panel" appears on the front panel near the word "poison" and the skull and crossbones; and
- (2) For other toxicity categories, the statement of practical treatment is not required on the front panel except as described in (1) above. The applicant may, however, include such a front panel statement at his option. Statements of practical treatment are, however, required elsewhere on the label in accord with §4-66-18 if they do not appear on the front panel.

(e) All the required front panel warning statements shall be grouped together on the label, and shall appear with sufficient prominence relative to other front panel text and graphic material to make them unlikely to be overlooked under customary conditions of purchase and use. The minimum type size requirement shall be that established under FIFRA. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-19 Label; other required warnings and precautionary statements. (a) The warnings and precautionary statements as required below shall appear together on the label under the general heading "precautionary statements" and under appropriate subheadings of "hazard to humans and domestic animals", "environmental hazard", and "physical or chemical hazard".

(b) Where a hazard exists to humans or domestic animals, precautionary statements are required indicating the particular hazard, the route or routes of exposure, and the precautions to be taken to avoid accident, injury, or damage. The precautionary paragraph shall be immediately preceded by the appropriate hazard signal word.

(c) Where a hazard exists to non-target organisms excluding humans and domestic animals, precautionary statements are required stating the nature of the hazard and the appropriate precautions to avoid potential accident, injury, or damage. Examples of the hazard statements and the circumstances under which they are required follow:

- (1) If a pesticide intended for outdoor use contains an active ingredient with a mammalian acute oral LD₅₀ of 100 mg/kg or less, the statement "this pesticide is toxic to wildlife" is required;
- (2) If a pesticide intended for outdoor use contains an active ingredient with a fish acute LC₅₀ of 1 ppm or less, the statement "this pesticide is toxic to fish" is required;
- (3) If a pesticide intended for outdoor use contains an active ingredient with an avian acute oral LD₅₀ of 100 mg/kg or less, or a subacute dietary LC₅₀ of 500 ppm or less, the statement "this pesticide is toxic to wildlife" is required;

- (4) If either accident history or field studies demonstrate that use of the pesticide may result in fatality to birds, fish, or mammals, the statement "this pesticide is extremely toxic to wildlife (fish)" is required;
 - (5) For uses involving foliar application to agricultural crops, forests, shade trees, or mosquito abatement treatments, pesticides toxic to pollinating insects shall bear appropriate label cautions; and
 - (6) For all outdoor uses other than aquatic applications the label shall bear the caution "keep out of lakes, ponds, or streams. Do not contaminate water by cleaning of equipment or disposal of wastes".
- (d) Warning statements on the flammability or explosive characteristics of the pesticide are required as shall be established under FIFRA. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-20 Label; directions for use; generally.
 Directions for use shall be stated in terms which can be easily read and understood by the average person likely to use, or to supervise the use of, the pesticide. When followed, directions shall be adequate to protect the public from fraud and from personal injury and to prevent unreasonable adverse effects on the environment. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

- §4-66-21 Label; placement of directions for use.
- (a) Directions may appear on any portion of the label provided that they are conspicuous enough to be easily read by the user of the pesticide product.
 - (b) Directions for use may appear on printed or graphic matter which accompanies the pesticide provided that:
 - (1) If required by the department, the printed or graphic matter is securely attached to each package of the pesticide, or placed within the outside wrapper or bag;
 - (2) The label bears a reference to the directions for use in accompanying leaflets or circulars, such as "see directions in the enclosed circular"; and

(3) The head determines that it is not necessary for the directions to appear on the label.
 [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-22 Label; exception to requirement for directions for use. (a) Detailed directions for use may be omitted from labeling of pesticides which are intended for use only by manufacturers of products other than pesticide products in their regular manufacturing processes, provided that:

- (1) The label clearly shows that the product is intended for use only in manufacturing processes and specified the type or types of products involved;
- (2) Adequate information such as technical data sheets or bulletins, is available to the trade specifying the type of product involved and its proper use in manufacturing processes;
- (3) The product shall not come into the hands of the general public except after incorporation into finished products; and
- (4) The head determines that the directions are not necessary to prevent unreasonable adverse effects on man or the environment.

(b) Detailed directions for use may be omitted from the labeling of pesticide products for which sale is limited to physicians, veterinarians, or druggists, provided that:

- (1) The label clearly states that the product is for use only by physicians or veterinarians;
- (2) The head determines that the directions are not necessary to prevent unreasonable adverse effects on man or the environment; and
- (3) The product is also a drug and regulated under the provisions of the Federal Food, Drug, and Cosmetic Act.

(c) Detailed directions for use may be omitted from the labeling of pesticide products which are intended for use only by formulators in preparing pesticides for sale to the public provided that:

- (1) There is information readily available to the formulators on the composition, toxicity, methods of use, applicable restrictions or limitations, and effectiveness of the product for pesticide purposes;
- (2) The label clearly states that the product is

- intended for use only in manufacturing, formulating, mixing, or repacking for use as a pesticide and specifies the type or types of pesticide products involved;
- (3) The product as finally manufactured, formulated, mixed, or repackaged is registered; and
 - (4) The head determines that the directions are not necessary to prevent unreasonable adverse effects on man or the environment.
- [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-23 Label; contents of directions for use.
The directions for use shall include the following, under the headings "directions for use";

- (1) The statement of use classification as prescribed in §4-66-24 immediately under the heading "directions for use";
- (2) Immediately below the statement of use classification, the statement "it is a violation of Federal law to use this product in a manner inconsistent with its labeling";
- (3) The site or sites of application, for example, crops, animals, areas, or objects to be treated;
- (4) The target pest or pests associated with each site;
- (5) The dosage rate associated with each site and pest;
- (6) The method of application, including instructions for dilution, if required, and type or types of application apparatus or equipment required;
- (7) The frequency and timing of applications necessary to obtain effective results without causing unreasonable adverse effects on the environment;
- (8) Specific limitations on reentry to areas where the pesticide has been applied, meeting the requirements concerning reentry provided by §4-66-65;
- (9) Specific directions concerning the storage and disposal of the pesticide and its container, meeting the requirements of §§4-66-54 and 4-66-55. These instructions shall be grouped and appear under the heading "storage and disposal." This heading shall

be set in type of the same minimum sizes as required for the child hazard warning required under FIFRA;

- (10) Limitations or restrictions on use required to prevent unreasonable adverse effects, such as:
- (A) Required intervals between application and harvest of food or feed crops;
 - (B) Rotational crop restrictions;
 - (C) Warnings as required against use on certain crops, animals, objects, or in or adjacent to certain areas;
 - (D) For restricted use pesticides, the category or applicators to whom use is restricted unless the department has determined that the product may be used by any certified applicator;
 - (E) For restricted use pesticides, a statement that the pesticide may be applied under the direct supervision of a certified applicator who is not physically present at the site of application but nonetheless available to the person applying the pesticide, unless the department has determined that the pesticide may only be applied under the direct supervision of a certified applicator who is physically present; and
 - (F) Other pertinent information which the head determines to be necessary for the protection of man and the environment.

[Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-24 Label; statement of use classification; generally. All pesticide products shall bear on their labels a statement of use classification as described in §§4-66-25 and 4-66-26. Any pesticide product for which some uses are classified for general use and others for restricted use shall be separately labeled according to the labeling standards set forth in this section and shall be marketed as separate products with different registration numbers, one bearing directions only for general use or uses and the other bearing directions for restricted use or uses, except that if a product has both restricted use or uses and general use or uses, both of these uses may appear on a product

labeled for restricted use. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-25 Label; general use classification.
Pesticide products bearing directions for use or uses classified general shall be labeled with the exact words "general classification" immediately below the heading "directions for use". Reference to the general classification that suggests or implies that the general utility of the pesticide extends beyond those purposes and uses contained in the directions for use shall be considered a false or misleading statement under statutory definitions of misbranding. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-26 Label; restricted use classification.
Pesticide products bearing directions for use or uses classified restricted shall bear statements of restricted use classification on the front panel as follows:

- (1) At the top of the front panel of the label, set in type of the same minimum sizes as required for human hazard signal words and appearing with sufficient prominence relative to other text and graphic material on the front panel to make unlikely to be overlooked under customary conditions of purchase and use, the statement "restricted use pesticide" shall appear; and
- (2) Directly below this statement on the front panel, a summary statement of the terms of restriction imposed as a precondition to registration shall appear. If use is restricted to certified applicators, the following statement is required: "for retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification." If, however, other regulatory restrictions are imposed, the head shall define the appropriate wording for the terms of restriction by rules.

[Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-27 Label; prominence and legibility. (a) All words, statements, graphic representations, designs, or other information required on the labeling by the Act or the rules in this part shall be:

- (1) Clearly legible to a person with normal vision; and
- (2) Placed with such conspicuousness (as compared with other words, statements, designs, or graphic matter on the labeling) and expressed in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(b) All required label texts shall:

- (1) Be set in six-point or larger type;
- (2) Appear on a clear contrasting background; and
- (3) Not be obscured or crowded.

[Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-28 Label; language to be used. All required label or labeling text shall appear in the english language. However, the head may require or the applicant may propose additional text in other languages considered necessary to protect the public. When additional text in another language is necessary, all labeling requirements shall be applied equally to both the english and other language versions of the labeling. [Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-29 Label, placement. (a) The label shall appear on or be securely attached to the immediate container of the pesticide product. For purposes of this section, and the misbranding provisions of the act, "securely attached" means that a label can reasonably be expected to remain affixed during the foreseeable conditions and period of use. If the immediate container is enclosed within a wrapper or outside container through which the label cannot be clearly read, the label shall also be securely attached to such outside wrapper or container, if it is a part of the package as customarily distributed or sold.

(b) While a pesticide product is in transit, the

appropriate parts of the United States Code of Federal Regulations, Title 49 - Transportation concerning the transportation of hazardous materials, and specifically those parts concerning the labeling, marking, and placarding of hazardous materials and the vehicles carrying them, define the basic federal requirements. In addition, when any registered pesticide product is transported in a tank car, tank truck, or other mobile or portable bulk container, a copy of the accepted label shall be attached to the shipping papers, and left with the consignee at the time of delivery.

(c) When pesticide products are stored in bulk containers, whether mobile or stationary, which remain in the custody of the user, a copy of the label or labeling, including all appropriate directions for use shall be securely attached to the container in the immediate vicinity of the discharge control valve.
[Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-30 Label; false or misleading statements.
Pursuant to §149A-2(22), Hawaii Revised Statutes, a pesticide or a device is misbranded if its labeling is false or misleading in any particular including both pesticidal or non-pesticidal claims. Examples of statements or representations in the labeling which constitute misbranding include:

- (1) A false or misleading statement concerning the composition of the product;
- (2) A false or misleading statement concerning the effectiveness of the product as a pesticide or device;
- (3) A false or misleading statement about the value of the product for purposes other than as a pesticide or device;
- (4) A false or misleading comparison with other pesticides or devices;
- (5) Any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by the Hawaii department of agriculture;
- (6) The name of a pesticide which contains two or more principal active ingredients if the name suggests one or more but not all such principal active ingredients even though the name of the other ingredients are stated elsewhere in the labeling;
- (7) A true statement used in such a way as to

give a false or misleading impression to the purchaser;

- (8) Label disclaimers which negate or detract from labeling statements required under the Act and these rules;
- (9) Claims as to the safety of the pesticide or its ingredients, including statements such as "safe", "nonpoisonous", "noninjurious", "harmless", or "nontoxic to humans and pets" with or without a qualifying phrase as "when used as directed"; and
- (10) Non-numerical and comparative statements on the safety of the product, including but not limited to:
 - (A) "Contains all natural ingredients";
 - (B) "Among the least toxic chemicals known"; and
 - (C) "Pollution approved".

[Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-31 Label; final printed form. (a) Except as provided in §4-66-31(b), final printed labeling shall be submitted and accepted prior to registration.

However, final printed labeling need not be submitted until draft label tests have been provisionally accepted by the department.

(b) Clearly legible reproductions or photo reductions shall be accepted for unusual labels such as those silk-screened directly onto glass or metal containers or large bag or drum labels. The reproductions shall be microfilm reproduction quality.

[Eff. 7/13/81] (Auth: HRS §§149A-15, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-15, 149A-33, 40 CFR §162.10)

§4-66-32 Restricted use pesticides. (a) A pesticide or pesticide use classified for restricted use under FIFRA shall be classified as a restricted use pesticide.

(b) Any pesticides or pesticide uses meeting or exceeding the following criteria shall be a candidate for restricted use classification:

- (1) Pesticides in toxicity categories I and II as defined in §4-66-18;
- (2) Pesticides or pesticide uses which are determined to be a health hazard for one or

more reasons including but not limited to toxicity, body storage, oncogenicity, mutagenicity, and teratogenicity or other reproductive effects; and

- (3) Pesticides or pesticide uses which can reasonably be anticipated to result in significant population reductions in nontarget organisms, or fatal to members of endangered species.

(b) The head may classify a pesticide or pesticide use meeting or exceeding the criteria set forth in §4-66-32(b) for general non-restricted use if it is determined that measures such as packaging, type of formulation, or method of application eliminate or reduce hazards associated with the pesticide or pesticide use.

(c) The head, in consultation with the advisory committee, shall determine those pesticides or pesticide uses meeting or exceeding the criteria set forth in §4-66-32(b) and submit a list of those pesticides and pesticide uses for approval by the board.

(d) The following pesticides, pesticide formulations, or pesticide products for reasons based on the criteria set forth in §4-66-32(b) are restricted use pesticides:

<u>Restricted Use Pesticides</u>	<u>Restricted Concentration</u>
Acrolein (Aqualin, Acrylaldehyde)	All
Aldicarb (Temik)	All
Aldrin	All
Aluminum phosphide (Phostoxin)	All
Arsenic compounds, inorganic	All except finished baits
Avitrol (4-aminopyridine)	All
Azinphos ethyl (ethyl Guthion)	All
Azinphos methyl (Guthion)	All
BHC (Benzene hexachloride)	All
Bomyl (dimethyl 3-hydroxyglutaconate dimethyl phosphate)	All
Cadmium compounds	All
Carbofuran (Furadan)	All
Carbophenothion (Trithion)	All
Carbophenothion (Trithion)	All
Chlordane	All
Chloropicrin	All
Copper acetoarsenite (Paris Green)	All
Cyanides (Calcium, sodium, liquid hydrogen)	All

Cycloheximide (Actidone)	All
DBCP (1,2-dibromo-3-chloropropane)	All
DDD (TDE)	All
DDT	All
Demeton (Systox)	All
2,4-Dichlorophenoxyacetic acid and its esters and salts	*All
2(2,4-Dichlorophenoxy) proprionic acid and its esters and salts	*All
1,2-dichloropropane, 1,3-dichloro- propane and related C3 compounds (Telone, DD mixture, Vidden D)	All
Dicrotophos (Bidrin)	All
Dieldrin	All
Dinoseb (DNBP)	All
Dioxathion (Delnav)	All
Diphacinone (Diphacin)	All except finished baits
Diquat	All
Disulfoton (Di-syston)	All
DNOC (4,6-dinitro-o-cresol and salts)	All
Endosulfan (Thiodan)	All
Endothall and salts	All
Endrin	All
EPN (O-ethyl O-p-nitrophenyl phenylphosphonothioate)	All
Ethion	All
Ethoprop (Mocap)	All
Ethylene dibromide (EDB)	All
Ethylene dichloride	All
Famphur	All
Fenamiphos (Nemacur)	All
Fensulfothion (Dasanit)	All
Fenthion (Baytex)	All
Fonophos (Dyfonate)	All
Fumarin (3-alpha-acetonylfurfuryl- 4-hydroxycoumarin)	All except finished baits
Heptachlor	All
Lead arsenate	All
Lindane	All above 1%
Magnesium phosphide	All
Mercury compounds	All
Methamidophos (Monitor)	All
Methomyl (Lannate)	All
Methyl bromide	All
Mevinphos (Phosdrin)	All
Mexacarbate (Zectran)	All
Mirex	All
Monocrotophos (Azodrin)	All
Nicotine	All

Nicotine salts	All above 40%
Oxamyl (Vydate)	All
Paraquat	All above 0.2% cation
Parathion	All
Pentachlorophenol and salts	All above 5%
Phorate (Thimet)	All
Phosphamidon (Dimecron)	All
Phosphorous (white or yellow)	All
Picloram (Tordon)	All
Pival (2-pivalyl-1,3-indandione and salts)	All except finished baits
PMP (Valone)	All
Schradan (OMPA)	All
Selenium compounds	All
Silvex	All
Sodium arsenite	All
Sodium chlorate	All without fire retardant
Sodium fluoroacetate (1080)	All
Strychnine and its salts	All
Sulfotepp (0,0,0,0-tetraethyl dithiopyrophosphate)	All
Sulfuryl fluoride (Vikane)	All
TEPP (Tetraethyl pyrophosphate)	All
Terbufos (Counter)	All
Temephos (Abate)	All aquatic uses
Thallium compounds	All
Toxaphene	All
Tricalcium arsenate	All
2,4,5-Trichlorophenoxyacetic acid and its esters and salts	All
Warfarin and salts	All except finished baits
Zinc phosphide	All except finished baits for domestic use containing 2% or less
Zinophos (0,0-diethyl 0-2- pyrazinyl phosphorothioate)	All

* Pesticides marketed in quantities of one quart or less or containing two per cent or less active ingredient in combination with fertilizers may be sold for general use. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-33) (Imp: HRS §§149A-19, 149A-33)

§4-66-33 Pesticide licensing; exceptions. (a)

Any manufacturer, packer, seller, distributor, or shipper of a pesticide may apply to license the pesticide.

(b) No person may distribute in the State, any pesticide which is not licensed with the department, except for the following:

- (1) Pesticides transferred between EPA registered establishments operated by the same producer for packaging or for use in producing another pesticide, provided the pesticides are labeled to clearly show their identity and the purpose for which they are being transferred;
- (2) Pesticides distributed under an experimental use permit issued by the head;
- (3) Pesticides transferred for purpose of disposal when marked to show they are for disposal only, and accompanied by sufficient information to identify products and to insure that product can be handled with minimum hazard to man or the environment;
- (4) Pesticides intended solely for export when prepared or packed according to specifications of foreign purchaser;
- (5) Pesticides being distributed under an emergency exemption; and
- (6) Pesticides distributed to research laboratories for the purpose of laboratory or greenhouse tests or limited replicated field trials of less than one-fourth acre to determine toxicity or other properties and from which the producer, researcher, or applicator or any other person conducting the test does not expect to receive any benefit in pest control from its use.

[Eff. 7/13/81] (Auth: HRS §§149A-13, 149A-19, 149A-33) (Imp: HRS §§149A-13, 149A-19, 149A-33)

§4-66-34 Applications for licensing. The following shall apply to licensing:

- (1) Applications shall be filed by applicant or by an agent whom the applicant has designated by a notarized letter;
- (2) Applications shall be made on forms provided by the department and shall contain the following information: name and address of the person whose name shall appear on the label, name and address of the applicant, name of the pesticide as shown on the label,

- the EPA registration number, the EPA establishment number, and the signature of the applicant;
- (3) Applications shall be submitted at least thirty days before the time when it is desired that licensing take effect;
 - (4) Applications shall be accompanied by a number of copies of each label and any other printed or graphic matter which shall be accompanying the pesticide, including all claims, directions for use, and classification as specified by the head; and
 - (5) If requested by the head, the applicant shall provide the complete formula of the product including active and inert ingredients and a description of tests and the results thereof on which claims are based, including efficacy, residue, safety, and other supporting data that shows the product shall perform its intended function without unreasonable adverse effects on the environment.

§4-66-35 Pesticide licensing; effective date.

(a) Licenses shall become effective on the date issued and unless canceled by the head shall continue in effect through the date of expiration.

(b) Effective January 1, 1982, pesticide products are to be licensed for a period of three years at a minimum annual fee of \$15.00 per year, or fraction thereof, that the pesticide product is licensed. All licenses shall expire on December 31 of each third year thereafter.

(c) Provisional licenses may be issued for experimental use permits to cover the duration of the permit.

(d) Any pesticide product licensed under the Act shall not require any further licensing by other persons provided:

- (1) The pesticide product is in the manufacturer's or registrant's original unbroken container;
- (2) The claims made (its directions for use, its use classification and other information contained in its labeling) do not differ from those made in conjunction with the license currently in effect; and
- (3) Any change in the labeling or formula of a licensed pesticide shall be submitted in

advance to the head provided:

- (A) The licensee shall describe the exact change and upon request, shall submit test results to support any change in labeling claims; and
- (B) After the effective date of any change in labeling or formulas, the pesticide shall be marketed only under the new label or formula, provided, the head may permit a reasonable time for disposition of stocks, if in the opinion of the head, such disposition does not result in any unreasonable adverse effect on man or the environment.

[Eff. 7/13/81] (Auth: HRS §§149A-13, 149A-19, 149A-33) (Imp: HRS §§149A-13, 149A-19, 149A-33)

§4-66-36 Pesticide licenses; corrections. (a) The head shall require the licensee to make necessary changes should the labeling claims of the pesticide be unwarranted or if the pesticide and its labeling or other material required to be submitted do not comply with the Act or this rule or when necessary to prevent unreasonable adverse effects on the environment or man.

(b) If the licensee fails to make the necessary corrections within fifteen days upon receipt of the notice, the head may:

- (1) Refuse to license the pesticide;
- (2) Cancel the pesticide license; and
- (3) Change the classification of the pesticide.

(c) Should the head determine that an imminent hazard exists, the head may suspend the license of any use or uses of a pesticide. The licensee shall be notified within twenty four hours of the suspension and given the reasons for the action.

(d) Should the head find that a pesticide or its labeling fails to comply with FIFRA or its regulations, the head shall notify EPA and suggest corrections which would bring it into compliance.

(e) Applicants may request a hearing as provided in §149A-14, Hawaii Revised Statutes. [Eff. 7/13/81]

(Auth: HRS §§149A-13, 149A-14, 149A-19, 149A-33)
(Imp: HRS §§149A-13, 149A-14, 149A-19, 149A-33)

§4-66-37 Special local need (SLN) registration.

(a) The head may register pesticide products for special local needs. All applicants for registration of pesticides to meet special local needs shall submit

the following information.

- (1) The name and address of the applicant and any other person whose name shall appear on the labeling or in the directions for use;
- (2) The name of the pesticide product, and if application is for an amendment to a federally registered product, the EPA registration number of that product;
- (3) A copy of proposed labeling, including all claims made for the product as well as directions for its use to meet the special local need, consisting of the complete proposed labeling for a new product, or the proposed supplemental labeling for registration of an additional use of a federally registered product, and the complete formula of the product, if the application is for a new product; and
- (4) Any other information specified by the head which is required to be reviewed prior to registration under this section.

(b) The head shall determine whether there is a special local need for registration in reviewing any application. Situations which the head may consider as not involving a special local need may include, but are not limited to, use to control a pest problem present on a nationwide basis, and use of a pesticide product registered by other states on an interregional or national basis.

(c) The head shall determine that the product warrants the claims made for it in the registration application. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17) (Imp: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17)

§4-66-38 Special local need; unreasonable adverse effects. (a) Prior to issuing a special local need registration in the following cases, the head shall determine that use of the product for which registration is sought would not cause unreasonable adverse effects on man or the environment, when used in accordance with labeling directions or widespread and commonly recognized practices:

- (1) For the use of a product which has a composition not similar to any federally registered product;
- (2) For the use of a product involving a use pattern not similar to any federally

- registered use of the same product or of a product with a similar composition; or
- (3) For the use of a product for which other uses of the same product, or of a product with a similar composition have had federal registration denied, disapproved, suspended, or cancelled by the administrator of EPA.
- (b) Determination required by §4-66-38(a) shall be based on data and criteria consistent with federal regulations applicable to the type of product or use under consideration. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17) (Imp: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17)

§4-66-39 Special local need; label, packaging and coloration requirements. (a) The head shall review the proposed labeling submitted with the application to determine compliance subject to the following requirements:

- (1) A copy of the final printed labeling shall be reviewed by the head as soon as practicable after a registration is issued in order to verify compliance;
- (2) A new product registered shall be accompanied, at the time of use, by labeling meeting all applicable criteria of §§4-66-4 to 4-66-31. New product labeling shall also contain a statement identifying "for distribution and use only within the state of Hawaii" and the assigned special local need number.
- (3) For a registration of an additional use of a federally registered product, labeling from the federally registered product shall be accompanied at the time of use by supplemental labeling which contains:
- (A) A statement identifying "For distribution and use only within the State of Hawaii";
 - (B) Directions for use to meet the special local need which satisfy the criteria of §§4-66-10 to 4-66-31;
 - (C) The trade name of the product;
 - (D) The name and address of the special local need registrant;
 - (E) The EPA registration number of the federally registered product;
 - (F) The assigned special local need number;

- (G) A statement requiring a person using the product to comply with all applicable directions, restrictions, and precautions found in the labeling of the federally registered product; and
 - (H) A statement prohibiting the use of the product in a manner inconsistent with federal and accompanying supplemental labeling.
- (4) If the head classifies for restricted use a product or use registered by the head, which is not required to be classified by §4-66-32, then the head shall require supplemental labeling for the product or use to have additional appropriate precautions, and a statement that the product or use is for restricted use.
- (b) All products registered by the head shall meet all appropriate federal packaging standards as well as all appropriate standards for coloration established and contained in §4-66-42. Prior to issuing any registration, the head shall determine that the product conforms to these requirements.
 [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17) (Imp: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17)

§4-66-40 Special local need; classification. (a) As part of the registration of any part or use, the head shall classify the product or use consistent with §4-66-32.

(b) A product or use thereof registered by the head shall be classified by the head for restricted use if the product is identical or similar in composition to a federally registered product for which the use has been classified as restricted under federal law or for which a use similar to the registered use has been classified as registered use under federal law, and the registered product or use meets the criteria for classification as restricted use pesticides under §4-66-32. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17) (Imp: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17)

§4-66-41 Special local need; notification and submission of data to the Environmental Protection

Agency. (a) Within ten working days from the date of issuance of amendments or revocation of a registration, the head shall notify EPA in writing, of the action. Notification of registrations, or amendments thereto, shall include the confidential statements of the formula of any new product, and a copy of the draft labeling reviewed and approved by the head, provided that labeling previously approved by the EPA as part of a federal registration need not be submitted.

(b) Notification of registrations or amendments shall be supplemented by sending to EPA a copy of the final printed labeling approved by the head within forty-five days after the effective date of registration or amendment.

(c) Notification of revocation or registration shall indicate the effective date of revocation, and shall state the reasons for revocation.

(d) Within fifteen working days from receipt of a request from EPA, the head shall submit any data used to determine that unreasonable adverse effects shall not be caused by a registration of a product with a composition not similar to any federally registered product, or an additional use of a federally registered product, or a use of a product with a composition similar to that of a federally registered product, or if registration of other uses of the federally registered product has been denied, suspended, or canceled registration because of health, safety, or environmental concerns. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17) (Imp: HRS §§149A-19, 149A-22, 149A-33, PL 95-396 §24(c), 40 CFR §162.17)

§4-66-42 Coloration. (a) The white pesticides hereinafter named shall be colored in accordance with this section. The Munsell Book of Color shall be used as the color standard. The coloring agent shall produce a uniformly colored agent not subject to a change in color beyond the minimum requirements specified in this rule during ordinary conditions of storage, and shall not cause the product to become ineffective or result in its causing damage when used as directed.

(b) Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue, except the yellow-reds and yellows, having a value of not more than 8 and a chroma of not less than 4, or shall be colored to a neutral lightness value not

over 7.

(c) Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than 8 and a chroma of not less than 4, or shall be colored to a neutral lightness value not over 7.

(d) Notwithstanding the provisions of §§4-66-42(b) and 4-66-42(c), the head, after opportunity for hearing, may permit other hues to be used for any particular purpose if the prescribed hues are not feasible for that purpose and if the action shall not be injurious to the public:

- (1) Any pesticide specified in this section which is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dryer as a moth-proofing agent, which would not be suitable for use if colored and which shall not come into the hands of the public except when incorporated into a fabric, shall be exempt from the requirements of §149A-5(a), Hawaii Revised Statutes, and of this section; and
- (2) The pesticide sodium fluoride shall be exempt from the requirements of §149A-16(a), Hawaii Revised Statutes, and of this section when:
 - (A) It is intended for use as a fungicide solely in the manufacture or processing of rubber, glue, or leather goods;
 - (B) Coloration of said pesticide in accordance with said requirements shall be likely to impart objectionable color characteristics to the finished goods;
 - (C) Said pesticide shall not be present in the finished goods in sufficient quantities to cause injury to any person; and
 - (D) The pesticide will not come into the hands of the public except after incorporation into the finished goods.

[Eff. 7/13/81] (Auth: HRS §§149A-16, 149A-33, 40 CFR §162.10) (Imp: HRS §§149A-16, 149A-33, 40 CFR §162.10)

§4-66-43 Enforcement. (a) The head may enter any place or conveyance where pesticides or devices are manufactured, stored, packed, delivered for transportation, transported, offered for sale or sold, and may inspect and take samples of the pesticides and devices. An unbroken package shall be taken as the official sample where the pesticide is packed in small

bottles, or small packages. Where the pesticide is packed in large containers, the official samples shall be a portion taken from one original unopened package in a lot.

(b) Methods of analyzing samples shall be those adopted and published by the Association of Official Analytical Chemists, where applicable, and the other methods as may be necessary to determine where the product complies with the Act or this rule.

(c) A notice of apparent violation shall include:

- (1) If from an examination or analysis, a pesticide or device appears to be in violation of the Act or this rule, a notice in writing shall be sent to the person against whom proceedings are contemplated, giving that person the opportunity to offer a written explanation. The notice shall state the manner in which the sample failed to meet the requirements of the Act or this rule; and
- (2) Any person may, in addition to this written reply to the notice, file with the head within twenty days of receipt of the notice a written request for a hearing in connection therewith.

(d) The head may issue "stop sale" and "removal from sale" orders to any pesticide or device which violates or fails to comply with the provisions of the Act or this rules, and may place written or printed "stop sale" and "removal from sale" notices on any pesticide or device.

- (1) Upon receipt of the orders, the vendors shall correct the violation and effect full compliance therewith. The articles shall not hereafter be sold, offered for sale, transferred or disposed of except upon authorization by the head; and
- (2) No person shall remove, deface or tamper with any "stop sale" and "removal from sale" notice.

(e) The head may seize any pesticide or device that is distributed, sold, offered for sale, transported, or delivered for transportation in violation of the Act or this rule. No notice or hearing shall be required prior to the seizure of a pesticide or device. [Eff. 7/13/81] (Auth: HRS §§149A-11, 149A-20, 149A-21, 149A-33) (Imp: HRS §§149A-11, 149A-20, 149A-21, 149A-33)

§4-66-44 Notice of judgement. Publication of

judgements of the courts in cases arising under the criminal or seizure provisions of the Act or this rule may be made in the form of notices, circulars, or bulletins as the head may direct. [Eff. 7/13/81] (Auth: HRS §§149A-21, 149A-33) (Imp: HRS §§149A-21, 149A-33)

§4-66-45 Experimental use permits; generally. Experimental use permits may be issued for the shipment, delivery or use of a pesticide product which is to be tested further to determine the scope and limitations of its usefulness and the effect of its use on man and the environment. Permits may be issued for products for use in experimental programs under the supervision of applicators certified in research and demonstration pest control and broad scale testing under normal conditions of use. The head may require the information and data concerning the product and the proposed testing program which is deemed necessary to make determinations on the merits of the proposals. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

- §4-66-46 Experimental use permits; prohibitions. No permits shall be issued for any of the following:
- (1) A product containing an active or inert ingredient which is currently subject to an EPA cancellation or suspension of registration order, or which is currently subject to an EPA notice of intent to suspend or cancel registration because of human health, environmental, or efficacy consideration; except that a permit may be issued for a product for purpose or in a formulation which:
 - (A) Is not specifically considered in, or which is not subject to, suspension or cancellation proceedings, after consultation with appropriate EPA officials; or
 - (B) Was specifically considered during the proceedings but not suspended, canceled, or subject to a notice of intent to suspend or cancel.
 - (2) A use of a product which has been the subject of a notice of denial of registration under FIFRA; and

- (3) A use of a product which may involve use in or on food or feed other than as authorized in §4-66-47.

[Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

§4-66-47 Experimental use permits; exceptions.

No experimental use permit is required for the shipment or use of a substance or mixture of substances being put through laboratory, greenhouse, or limited field trials of less than one-fourth acre, in which the purpose is to determine its value as a pesticide or to determine its toxicity, or other properties, where the tests are being conducted by recognized research personnel and from which the user does not expect to receive any benefit in pest control from its use. These substances or mixture of substances are not considered to be pesticides within the meaning of the act or this rule. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

§4-66-48 Experimental use permit; provisions for issuance. (a) A permit is required for a pesticide intended for experimental use which is not exempt under §4-66-47. If a pesticide is to be tested for a use which is likely to result in a residue on or in food or feed, a permit for experimental use may be issued provided:

- (1) A tolerance or exemption from the requirements of a tolerance has been established under §408 of the Federal Food, Drug, and Cosmetic Act; or a regulation established under §409 of the Federal Food, Drug, and Cosmetic Act; or
- (2) The food or feed product shall be destroyed or used only for laboratory or experimental animals for testing purposes; or
- (3) Convincing evidence is submitted by the applicant that the proposed use shall not result in residues that would be in excess of that authorized under §408 of the Federal Food, Drug, and Cosmetic Act, or a regulation established under §409 of the Federal Food, Drug, and Cosmetic Act which would be hazardous to man, other animals, or the environment.

(b) A permit shall be issued only if it is clearly shown in the permit application that the applicant's instructions for use reasonably assure the protection of man and the environment.

(c) All applications for an experimental use permit shall be filed by a qualified person on a form approved by the head. Each application shall contain the following:

- (1) Name and address of the shipper and the consignee and place or places from which the shipment shall be made;
- (2) Proposed date of shipment or proposed shipping period not to exceed one year and quantity to be shipped;
- (3) A statement of the composition of material to be covered by the permit which should apply to a single material or similar formulations of the material;
- (4) The name, address and telephone number and qualification of the person responsible for conducting the test;
- (5) Available data or reference to available data on the analytical method and toxicity of the pesticide;
- (6) The purpose or objective of the proposed testings; a description of the proposed testing program including test parameters; a designation of the pest organism or organisms involved; the amount of pesticide product proposed for use; the crops, fauna, flora, sites, modes, dosage rate and situation of applications on or in which the pesticide is to be used; the number of acres, number structure sites, or number of animals to be treated or included in the area of experimental use; the proposed dates or period or periods during which the testing program is to be conducted and the manner in which supervision of the program shall be accomplished and the method of destruction or disposal of treated food or feed;
- (7) A statement that the pesticide is intended for experimental use only;
- (8) Proposed labeling which shall bear:
 - (A) The prominent statement "for experimental use only" on the container label and any accompanying circular or other labeling;
 - (B) A warning or caution statement which may be necessary and if complied with is

adequate for the protection of those who may handle or be exposed to the experimental formulations;

- (C) The name and address of the applicant for the permit;
- (D) The name or designation of the formulation; and
- (E) If the pesticide is to be sold, a statement of the names and percentages of the principal active ingredients in the product; provided, that, if the shipper shall submit a copy of a valid experimental permit issued under the provisions of FIFRA the accepted labeling related thereto, the head may exempt the shipper from the requirement of submitting a part of the application, the data and information herein specified in this subsection; and

- (9) A statement as to the disposal of any unused portions of the experimental pesticide.

[Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

§4-66-49 Experimental use permit; restrictions.

(a) The head may limit the quantity of a pesticide covered by a permit to a lesser quantity than requested if available information on effectiveness, toxicity, or other hazards is not sufficient to justify the scope of experimental use proposed in the application, or make other limitations in the permit as may be determined to be necessary for the protection of the public.

(b) A pesticide shipped or delivered solely for experimental use shall not be offered or advertised for general sale or use.

(c) Unless revoked by the head, permits shall be effective for a specified period of time, usually one year, depending upon the crop or site to be treated and the testing program submitted. Permits may be renewed upon request if circumstance warrants. [Eff. 7/13/81]

(Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

(Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

§4-66-50 Experimental use permits; reports. The holder of a permit shall submit periodic reports regarding the status of the experimental program. Reports shall be submitted at specific intervals as may

be prescribed by the head (but shall report immediately incidents of unreasonable adverse effects from use, or from exposure to pesticides covered by an experimental use permit). These reports shall include the following information:

- (1) Quantity of the pesticide shipped and used during the reporting period;
- (2) Name and address of consignee and ultimate destination and amount of each shipment;
- (3) A summary of data on effectiveness, phytotoxicity, or other pertinent information regarding usefulness obtained during the permit period;
- (4) Any additional data obtained on residue or analytical methods obtained;
- (5) Any additional data obtained on toxicity or adverse effects to man, non-target animals, or the environment;
- (6) Any residue data obtained on the treated crop or site on which determination can be made regarding reentry into the treated area;
- (7) Disposition of unused pesticide; and
- (8) Such other information and data as may be prescribed by the head.

[Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

§4-66-51 Experimental use permits; monitoring and revocation. (a) The head shall monitor the testing program if it is determined necessary for protection of the public health and environment. It shall be the responsibility of the holder of a permit or person supervising the experiment to report immediately incidents or adverse reaction from use of, or exposure to the pesticide covered by an experimental use permit.

(b) The head shall revoke an experimental use permit if it is determined that the terms or conditions are being violated, or that its terms or conditions are inadequate to avoid unreasonable adverse effects on the environment. [Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172)

§4-66-52 Restricted use pesticide dealer. (a) Persons who sell a restricted use pesticide shall obtain a license from the department which shall expire on December 31 of each year and shall be renewed on or

before January 1 of each year.

(b) Application shall be made on a form prescribed by the head and shall include name and address of applicant, location and qualified pesticide sales manager at each sales outlet.

(c) A fee of \$25.00 for the principal sales outlet and \$10.00 for each branch sales outlet shall be assessed.

(d) Any manufacturer, registrant, or distributor who has no sales outlet licensed within this State and who sells or distributes the pesticides directly to the user shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

(e) All sales outlets of restricted use pesticides shall have a qualified pesticides sales manager. The names of the qualified sales managers shall be submitted together with the application for a license for the sales outlet. The head shall be notified forthwith of any change in personnel in this position.

(f) Persons seeking to be a qualified pesticide sales manager shall apply for examination on forms provided by the head. To qualify, an applicant shall pass a written examination at a time and place designated by the head. Examination shall test the applicant's knowledge of pesticide laws and regulations, pesticide hazards, proper usage, safe storage and distribution and disposal methods.

(g) Every licensed pesticide dealer shall be responsible for the acts of all qualified pesticide sales managers and individuals employed in the solicitation, sale and handling of pesticides. The dealer's license or the qualification of the sales manager or both may be suspended or revoked, after hearing for any violation of the Act or this rule whether committed by the dealer, the sales manager or by any other officer, agent, or employee.

[Eff. 7/13/81] (Auth: HRS §§149A-11, 149A-17, 149A-19, 149A-33) (Imp: HRS §§ 149A-11, 149A-17, 149A-19, 149A-33)

§4-66-53 Dealer's records and reports. (a) Licensed dealers shall keep a record of each sale of restricted use pesticides at each sales outlet on forms provided by the head.

(b) Records shall be prepared in duplicate and shall show the name and address of purchaser, date of sale, identity of the formulation or brand sold and quantity, certification number and expiration date of

each certification of the purchaser, intended use and selling clerk's signature.

(c) The original copy of the sales record shall be submitted to the head at the end of each month and the duplicate copy shall be kept at the sales outlet where the sales were made for a period of one year.
[Eff. 7/13/81] (Auth: HRS §§149A-17, 149A-19, 149A-33) (Imp: HRS §§149A-17, 149A-19, 149A-33)

§4-66-54 Storage, display, and sales of pesticides. (a) No pesticide shall be stored, displayed, placed for sale or transported where food and food containers, feed or any other products are likely to become contaminated and may create a hazard or cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects and aquatic life.

(b) Pesticides labeled for lawns, gardens and other outdoor uses shall be offered for sale only in garden supply centers or in other retail outlets that have a separate and distinct section for sale.

(c) Lawn and garden pesticides shall be displayed and sold in a separate section from pesticides formulated and registered for use inside the home.

(d) A prominent sign with legible bold print not less than one-half inch in height to read "pesticide products for garden and lawn or outdoor use only - it is unlawful and may be hazardous to use inside your home" shall be posted in the area where such lawn and garden pesticides are displayed and sold.
[Eff. 7/13/81] (Auth: HRS §§149A-31, 149A-33) (Imp: HRS §§149A-31, 149A-33)

§4-66-55 Disposal of pesticides and empty pesticide containers. (a) Pesticides and empty containers shall not be disposed of so as to create a hazard.

(b) Owners of pesticides and empty containers shall notify or contact the head whenever information or assistance on the proper means of disposal is required.

(c) Reusable empty containers of pesticides shall not be used for purposes other than for refilling or repacking with the same pesticide; however, the head may prescribe and allow uses for other purposes should such containers be properly prepared.

(d) Unusable empty glass or metal restricted use pesticide containers shall be emptied, triple rinsed

with an appropriate solvent punctured or crushed unless otherwise directed by the label or the head.

(e) Pesticide containers shall be disposed of in an approved solid waste land fill or buried in the ground, covered with at least one foot of soil unless otherwise directed by the label or the head.

[Eff. 7/13/81] (Auth: HRS §§149A-19, 149A-33) (Imp: HRS §§149A-19, 149A-33)

§4-66-56 Certification of applicators. (a) Applicators applying restricted use pesticides shall be certified either as a commercial pesticide applicator or private pesticide applicator.

(b) Commercial pesticide applicators shall be further divided into categories and subcategories as follows:

- (1) Category 1 concerns agricultural pest control and includes the following:
 - (A) A plant pest control category which includes persons using or supervising the use of restricted use pesticides in production of agricultural crops, including food not limited to feed grains, soybeans, forages, vegetables, small fruits, and trees and nuts, as well as non-crop agricultural lands;
 - (B) An animal pest control category which includes persons using or supervising the use of restricted use pesticides to control pests on animals including, but not limited to beef and dairy cattle, swine, sheep, horses, goats, poultry and livestock, and to premises on or in which animals are confined; and doctors of veterinary medicine engaged in the business of application for hire, publicly holding themselves out as pesticide applicators or engaged in large scale use of pesticides;
- (2) Category 2 concerns forest pest control and includes persons using or supervising the use of restricted use pesticides in forests, forest nurseries, and forest seed producing areas;
- (3) Category 3 concerns ornamental and turf pest control and includes persons using or supervising the use of restricted use pesticides to control pests of ornamental trees, shrubs, flowers and turf;

- (4) Category 4 concerns seed treatment pest control and includes persons using or supervising the use of restricted use pesticides on seeds;
- (5) Category 5 concerns aquatic pest control and includes persons using or supervising the use of restricted use pesticides purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in §4-66-56(9);
- (6) Category 6 concerns right-of-way pest control and includes persons using or supervising the use of restricted use pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas;
- (7) Category 7 concerns industrial, institutional, and structural pest control, for:
 - (A) Fumigation pest control, which includes persons using or supervising the use of restricted use pesticides to control termites and other pests in or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial sites such as warehouses, grain elevators, and any other structures and adjacent area, public or private; and for the protection of stores, processed or manufactured products, excluding commercial applicators in categories 8 and 9. and for persons using or supervising the use of restricted use pesticides and fumigants in vaults, tarps, or chambers to control pests in agricultural commodities, including stored, processed or manufactured products, or goods;
 - (B) Termite pest control, which includes persons using or supervising the use of restricted use pesticides other than by fumigation to control subterranean and drywood termites in or around human dwellings, institutions such as schools and hospitals, hotels, industrial sites, and any other structures and adjacent area, public or private;
 - (C) General pest control, which includes

- persons using or supervising the use of restricted use pesticides to control pests in or around food establishments, human dwellings, institutions such as schools, hospitals, industrial sites such as warehouses, grain elevators and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products;
- (D) Institutional pest control, which includes persons using or supervising the use of restricted use pesticides at institutions (e.g., schools, hotels, hospitals, warehouses, industrial sites), construction sites, or establishments (e.g., restaurants, bakeries, fast food outlets) where they are employed;
 - (E) Vault fumigation pest control, which includes those individuals using or supervising the use of restricted use pesticides and fumigants in vaults or chambers to control pests in agricultural commodities or structural materials, exclusive of those individuals licensed as pest control operators and certified in category 7A, 7B, or 7C; and including stored, processed or manufactured products;
 - (F) Home pest control, which includes persons using or supervising the use of restricted use pesticides in or around their principal place of residence;
- (8) Category 8 concerns public health pest control and includes federal, state or other governmental employees using or supervising the use of restricted use pesticides in public health programs for the management and control of pests having medical and public health importance;
 - (9) Category 9 concerns regulatory pest control and includes state, federal or other government employees using or supervising the use of restricted use pesticides in the control of regulated pests;
 - (10) Category 10 concerns demonstration and research pest control and includes individuals who demonstrate to the public the proper use and techniques of application of

restricted use pesticides or supervise such demonstration and persons conducting field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides; and

- (11) Category 11 concerns aerial pest control and includes individuals using or supervising the use of restricted use pesticides applied by aircraft, exclusive of those certified in category 8.

[Eff. 7/13/81] (Auth: HRS §149A-33, 40 CFR §171)

(Imp: HRS §149A-33, 40 CFR §171)

§4-66-57 General standards for certification of commercial applicators. (a) Competence in the use and handling of pesticides shall be determined by written examination and as appropriate, upon demonstration based upon standards which meet or exceed those set forth in §§4-66-57(b) and 4-66-58 and approved by the head. The examination shall include knowledge applicable to all commercial categories (core examination) and the other special knowledge specifically applicable to the category (category examination), if any, into which the person is classified and to the pesticide or class of pesticides covered by the requested certification.

(b) Commercial applicators shall demonstrate appropriate knowledge based on examples from their particular category or subcategory in each of the following areas of the certification(s) requested.

- (1) An understanding of the general format and terminology of pesticide labels and labeling; an understanding of instructions, warnings, symbols, classification of the product, other information that may appear on the label, and the necessity for following label directions;
- (2) An understanding of pesticide toxicity and hazard to man and common exposure routes; precautions necessary to guard against injury; need for and use of protective clothing and equipment; symptoms of pesticide poisoning; and proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers including precaution to be taken to prevent children from having access to pesticides and pesticide containers;
- (3) An understanding of the potential

environmental consequences of the use and misuse of restricted use pesticides, for example, the role of such factors as climatic conditions, types of terrain, soil and substrate, and the presence of various non-target organisms.

- (4) The ability to identify pests and knowledge of the importance of the biology of pests relevant to their areas of operations;
- (5) A knowledge of the characteristics of various kinds of pesticides including types of formulations, compatibility, persistence, toxicity, hazard and residues associated with use;
- (6) A knowledge of the relative importance of pesticides, when they should and should not be used, and the factors which influence their effectiveness;
- (7) A practical knowledge of type, maintenance, use, and calibration of equipment and an understanding of advantages and limitations of various types of equipment. Additional knowledge of calibration shall be required of applicators using highly specialized equipment such as aircraft;
- (8) A practical understanding of how to apply pesticides in various formulations, such as dusts, wettable powders, emulsions, solutions, and gases, together with a knowledge of application techniques; Because of the potential for greater impact or aerial applications upon the environment, aerial applicators; drift potential the effect of pesticide on non-target crops, wildlife and apiaries and human habitation; and techniques and formulations which reduce drift; and
- (9) A knowledge of applicable federal and state laws and regulations.

[Eff. 7/13/81] (Auth: HRS §149A-33, 40 CFR §171)

(Imp: HRS §149A-33, 40 CFR §171)

§4-66-58 Specific standards for certification of commercial applicators. Commercial applicators shall demonstrate competence appropriate to their particular category or subcategory of certification as follows:

- (1) For agricultural pest control:
 - (A) Plant pest control applicators shall demonstrate knowledge of the crops grown and the specific pests on these crops on

- which they may be using restricted use pesticides. An operational knowledge is needed concerning soil and water problems, pre-harvest intervals, reentry intervals, phytotoxicity, and potentials for environmental contamination, non-target injury and community problems from the use of restricted use pesticides in agricultural areas; and
- (B) Animal pest control applicators shall demonstrate knowledge of such animals and their associated pests. Special understanding is needed concerning pesticide toxicity to host animals and the hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment;
- (2) Forest pest control applicators should demonstrate knowledge of the extent and types of forests, forest nurseries, and seed production and pests involved. They should demonstrate special knowledge of the cyclic occurrence of certain pests, population dynamics, and the impact of biotic agents and their vulnerability to pesticide application. Because forest stands frequently include aquatic situations and harbor wildlife, the applicators shall demonstrate knowledge of control methods which will minimize the possibility of secondary problems. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use;
- (3) Ornamental and turf pest control applicators should demonstrate knowledge of problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity, drift, and persistence beyond the intended period of pest control. They shall demonstrate special knowledge of the hazards to humans, pets, and other domestic animals associated with the restricted use pesticides utilized in this category;
- (4) Seed treatment applicators should demonstrate knowledge of types of seeds that require chemical protection against pests and special understanding of factors such as seed

- coloration and carriers and surface active agents which influence binding and may affect germination. They shall demonstrate knowledge of hazards associated with handling and misuse of treated seeds such as inadvertent introduction of treated seeds into food and feed use channels, as well as proper disposal of unused treated seeds;
- (5) Aquatic pest control applicators should demonstrate special understanding of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. Certified commercial applicators should demonstrate special awareness of the possibility of oxygen depletion and an understanding of possible pesticide effects on fishes, birds, beneficial insects, and desirable plants and other organisms which may be present in aquatic environments. They shall demonstrate an understanding of limited area applications;
 - (6) Right-of-way pest control applicators should demonstrate specific knowledge of a wide variety of environments since rights-of-way can traverse many different terrains, including waterways. They should demonstrate thorough knowledge of problems of runoff, drift, and excessive foliage destruction and should be able to immediately identify target organisms. They shall demonstrate special knowledge of the nature of herbicides. Aerial applicators doing right-of-way work should demonstrate special knowledge of application equipment, containment of the pesticide within the right-of-way area, and special drift control methods and procedures;
 - (7) Industrial, institutional, structural and public health related pest control applicators shall demonstrate special knowledge of a wide variety of pests including their life cycles, as well as types of formulations appropriate for the control and methods of application that avoid contamination of food and habitation and do not cause hazards to children and pets. Specific requirements may vary depending on the subdivisions of this category. Since human exposure is frequently a potential

problem, applicators must demonstrate special knowledge of the toxicity of the pesticides used and factors which may constitute a hazard. Because public health related pest control generally involves outdoor applications, applicators in this category shall demonstrate knowledge of environmental conditions particularly related to their subclassification;

- (8) Public health pest control applicators shall demonstrate knowledge of pests of public health importance, vector-disease relationships, and etiology of disease-host relationships. Since a wide variety of pests are involved, these pests must be known and recognized by public health control applicators, and the life cycles and habitats of each thoroughly understood. These applicators should be familiar with a great variety of environmental conditions ranging from streams to dwellings. They should also be cognizant to such non-chemical control methods as sanitation, waste disposal, and drainage;
- (9) Regulatory pest control applicators shall demonstrate broad general knowledge of applicable laws, safety, regulated pests, pesticides and the impact of restricted use pesticides on the environment. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Applicators shall demonstrate knowledge over and above that required by their immediate duties since emergency measures are frequently required and individual judgements in new situations shall be made; and
- (10) Demonstration pest control applicators are required to meet particularly high standards since their use of pesticides is presumed to be exemplary. Broad knowledge is required of pest and population levels of pest occurring where demonstrations are to be conducted. Included should be basic concepts of ecology, understanding of pesticide-organism interactions; the importance of integrating pesticide use with other methods, and the potential for various secondary problems.

[Eff. 7/13/81] (Auth: HRS §149A-33, 40 CFR §171)
 (Imp: HRS §149A-33, 40 CFR ps171)

§4-66-59 Standards for certification of private applicators. Applicators in the private class shall have an understanding of the label and labeling information, including the name of the pesticide or pesticides; pests to be controlled; when and how to apply; appropriate equipment and techniques; safety precautions; poisoning symptoms and pesticide disposal methods. [Eff. 7/13/81] (Auth: HRS §149A-33, 40 CFR §171) (Imp: HRS §149A-33, 40 CFR §171)

§4-66-60 Certification procedures. (a) Application for certification as a commercial applicator shall be on forms provided by the head. To qualify, applicant shall pass a written examination with a score of seventy per cent or better at a time and place designated by the head. The examination shall be based on standards contained in §§4-66-57(b) and 4-66-58. If the applicant fails to pass the examination, that applicant is eligible to be reexamined fourteen calendar days after the date of the initial examination.

(b) Application for certification as a private applicator shall be on forms provided by the head. To qualify, the applicant shall pass a written examination with a score of seventy per cent or better at a time and place designated by the head. The examination shall be based on standards contained in §4-66-59. If the applicant fails to pass the examination, that applicant is eligible to be reexamined fourteen calendar days after the date of the initial examination.

(c) Non-reader may be certified to use a specific product as a private applicator by successfully passing an oral examination administered by the head or any party approved by the head. Such training or testing shall incorporate a procedure to determine label comprehension, as specified in §4-66-59.

(d) All certifications issued under this section shall be valid for five years following date of issuance unless revoked. Application for renewal shall be on forms provided by the head. Renewal of certification shall be by reexamination or recertification course approved by the head. [Eff. 7/13/81] (Auth: HRS §149A-33, 40 CFR §171) (Imp: HRS §149A-33, 40 CFR §171)

§4-66-61 Conditions on the use of restricted pesticides. Any person may apply a restricted use pesticide, provided that:

- (1) The person is under the direct supervision of a certified applicator;
 - (2) The person shall be given specific written instructions by the certified applicator for applying the pesticide, safety measures to be taken (including emergency procedures), and contacting the certified applicator at any time during the application; and
 - (3) The certified applicator shall be responsible for all violations of the Act and this rule.
- [Eff. 7/13/81] (Auth: HRS §149A-33, 40 CFR §171)
 (Imp: HRS §149A-33, 40 CFR §171)

§4-66-62 Commercial Pesticide applicator recordkeeping. Commercial applicators shall keep records of restricted use pesticides applied on every job site of their operations. Such records shall be maintained for a period of two years and shall be made available for inspection to the head during reasonable working hours. Recordkeeping information shall include:

- (1) Brand or common name of pesticide product applied;
 - (2) EPA registration number;
 - (3) Type of formulation;
 - (4) Per cent active ingredient;
 - (5) Scientific or common name of target pest;
 - (6) Dilution rate;
 - (7) Total amount of pesticide used;
 - (8) Total area covered;
 - (9) Date of application;
 - (10) Address or location of treated site;
 - (11) Name of certified applicator and his certification number; and
 - (12) Any other information that the head deems to be necessary.
- [Eff. 7/13/81] (Auth: HRS §149A-33, 40 CFR §171)
 (Imp: HRS §149A-33, 40 CFR §171)

§4-66-63 Single purchase certification. (a) Certification for the one time purchase of a state restricted use pesticide shall be on forms provided by the head.

(b) To obtain a single purchase certification the applicant shall pass a written examination with a score

of seventy per cent or better.

(c) The single purchase certificate shall be valid for a period of ninety days from date of issuance.

(d) State restricted use pesticides available through single purchase certificate shall be determined by the head.

(e) The head shall determine the amount of restricted use pesticide to be purchased per single purchase certification. [Eff. 7/13/81] (Auth: HRS §149A-33) (Imp: HRS §149A-33)

§4-66-64 Conditions and limitations on pesticide application and sale. (a) No person shall apply a restricted use pesticide by aircraft except by special permit issued by the head and under the following conditions and limitations:

- (1) A written statement shall be filed by an applicant (plantation, farm, ranch) for such permit on forms provided by the head;
- (2) The statement shall include date, name, address and certification number of applicant, purpose of aerial treatment, pesticide formulation, dosage, method of aerial treatment and the proposed number of treatments to be made, a sketch or map to indicate general wind directions, proposed site or sites to be treated, surrounding homes, roadways, waterways and crop plantings in the vicinity;
- (3) The head may refuse to issue a special permit if it is determined that the proposed aerial treatment may cause unreasonable adverse effects to the environment or will create a hazard. All refusals shall be in writing and the reasons for refusal stated;
- (4) A special permit issued under this subsection shall specify the time period for which the special permit is valid. The head may specify and limit a special permit to cover a single, multiple, or continual treatments when conditions are not expected to change or vary during subsequent treatments that are conducted in the same designated area or areas;
- (5) Any special permit issued under this subsection may be cancelled by the head before its stated expiration date for reasonable cause. Such cancellation shall be

in writing and reasons for cancellation stated;

- (6) The head shall be notified at least three working days in advance of any aerial pesticide treatment except in an emergency situation when a notice of at least twenty-four hours may be given before treatment is made; and
 - (7) The issuance of a special permit to apply a restricted use pesticide by aircraft under this subsection shall not relieve the permittee from the penalty provisions of the act or any litigation for any damage or contamination of crops or plants, animals, man and the environment resulting from the aerial treatment.
- (b) The following provisions shall apply to the operating conditions of aircraft, power rigs, mist blowers, and other equipment used to apply pesticides:
- (1) Spray equipment on aircraft shall be leakproof. Spray nozzles shall be equipped with a device to prevent dribble when spray is turned off;
 - (2) Self-propelled power rigs used for interrow or broad-cast applications shall be equipped with a pressure control device and a pressure gauge; and
 - (3) Power rigs, mist blowers, and other equipment shall be in good working order with no excessive leaks along the pesticide material flow route.
- (c) No person shall apply a restricted use pesticide unless certified in the category appropriate to the application or unless under the direct supervision of a certified applicator certified in the appropriate category.
- (d) Licensed sales outlets shall sell restricted use pesticides relevant only to the certification category of the certified applicator.
- [Eff. 7/13/81] (Auth: HRS §149A-33) (Imp: HRS §149A-33)

§4-66-65 Posting of signs. (a) In an area treated with a highly toxic pesticide, the head may require the posting of appropriate warning signs on road leading into the treated area and the area itself.

(b) The head may specify wording, letter size, language, and coloring to be used on the signs as well as the number and location of signs deemed necessary to

protect against inadvertent trespass by the public. The head shall publish and maintain a list of all pesticides or pesticide uses and reentry intervals for which posting of a warning sign is required.

(c) All warnings and signs required to be posted under regulations promulgated under the provisions of the Federal Environmental Pesticide Control Act or any other federal or state act shall be required under this section and made a part of this rule.

[Eff. 7/13/81] (Auth: HRS §149A-33) (Imp: HRS §149A-33)

§4-66-66 Fees. (a) The department head shall set forth and collect fees for licensing of dealers, licensing of pesticides and certification of applicators as follows:

- (1) A fee of \$15 shall be assessed for each product licensed in the state each calendar year. A licensee who desires to continue to have the license in effect shall submit an application for renewal and \$15 for each pesticide product to be renewed;
- (2) A fee of \$25 shall be assessed annually for the license of each principal sales outlet and a fee of \$10 for each branch sales outlet of restricted use pesticide dealers;
- (3) A fee of \$10 shall be assessed for each examination taken for certification or examination or course approval for recertification of commercial or private applicators; and
- (4) A fee of \$5 will be assessed for the issuance of a duplicate applicator certificate.

(b) Fees shall be waived, with approval of the head, for personnel of state agencies and the University of Hawaii who apply restricted use pesticides for quarantine purposes, public health and forestry pest control, utility and roadway maintenance, and research and demonstration. [Eff. 7/13/81]
(Auth: HRS §149A-33) (Imp: HRS §149A-33)

§4-66-67 Severability. If any section of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and applicability thereof to other persons and circumstances shall not be affected. [Eff. 7/13/81] (Auth: HRS §149A-52) (Imp: HRS §149A-52)

